

# **TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT**

**TO:** Mayor and Council Members

**FROM/PHONE:** William F. Underwood, II/797-1050

**SUBJECT:** Resolution

**AFFECTED DISTRICT:** TOWN WIDE

**TITLE OF AGENDA ITEM:**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA (THE "TOWN"), APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERLOCAL AGREEMENT WITH CITY OF PLANTATION, FLORIDA IN CONNECTION WITH THE ISSUANCE BY THE TOWN ON BEHALF OF UNITED JEWISH COMMUNITY OF BROWARD COUNTY, INC. (THE "BORROWER") OF THE TOWN'S NOT TO EXCEED \$25,000,000 REVENUE BONDS (UNITED JEWISH COMMUNITY OF BROWARD COUNTY, INC. PROJECT), SERIES 2003, FOR THE PURPOSE OF FINANCING AND REFINANCING THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION AND EQUIPPING OF CERTAIN EDUCATIONAL FACILITIES AND SOCIAL SERVICE FACILITIES LOCATED IN THE TOWN AND IN THE CITY OF PLANTATION, FLORIDA ; AND PROVIDING FOR AN EFFECTIVE DATE.**

**REPORT IN BRIEF:**

**This Resolution authorizes the interlocal agreement between the Town and the City of Plantation for the proposed bond issue for the Borrower. The interlocal allows the Town to provide the conduit financing for a portion of the project that is located within the City of Plantation.**

**PREVIOUS ACTIONS:**

**CONCURRENCES:** N/A

**FISCAL IMPACT:**

Has request been budgeted? N/A

If yes, expected cost:

Account Name:

Additional Comments:

**RECOMMENDATION(S):** Motion to approve the resolution.

**Attachment(s):** Resolution

**RESOLUTION NO. R-2003-\_\_**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA (THE "TOWN"), APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERLOCAL AGREEMENT WITH CITY OF PLANTATION, FLORIDA IN CONNECTION WITH THE ISSUANCE BY THE TOWN ON BEHALF OF UNITED JEWISH COMMUNITY OF BROWARD COUNTY, INC. (THE "BORROWER") OF THE TOWN'S NOT TO EXCEED \$25,000,000 REVENUE BONDS (UNITED JEWISH COMMUNITY OF BROWARD COUNTY, INC. PROJECT), SERIES 2003, FOR THE PURPOSE OF FINANCING AND REFINANCING THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION AND EQUIPPING OF CERTAIN EDUCATIONAL FACILITIES AND SOCIAL SERVICE FACILITIES LOCATED IN THE TOWN AND IN THE CITY OF PLANTATION, FLORIDA ; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to the provisions of the Florida Constitution, Part II of Chapter 159, Florida Statutes, as amended and supplemented, Part I of Chapter 163, Florida Statutes, as amended and supplemented, Part II of Chapter 166, Florida Statutes, as amended and supplemented, the Town Charter of the Town of Davie, Florida, as amended and supplemented, and other applicable provisions of law (the "Act"), an interlocal agreement with the City of Plantation, Florida (the "City of Plantation") substantially in the form attached hereto as Exhibit A (the "Interlocal Agreement") and the policies of the Town of Davie, Florida (the "Town"), United Jewish Community of Broward County, Inc., a Florida not-for-profit corporation which is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Borrower") has submitted an application (the "Application") to the Town requesting that the Town issue, pursuant to the provisions of the Act and the Interlocal Agreement, revenue bonds to finance or refinance all or a portion of the costs of acquiring, constructing, reconstructing and equipping educational facilities and social service center facilities as described in Exhibit A to the Interlocal Agreement to be located in the Town and in the City of Plantation, Florida (collectively, the "Project"); and

**WHEREAS**, the Town's staff has found that the Borrower's Application meets the necessary requirements for the Town to consider the revenue bonds to finance the Project, and as a consequence the Town hereby determines to adopt this Resolution at the request of the Borrower as a declaration of official intent by the Town to issue, in one or more series, its Revenue Bonds (United Jewish Community of Broward County, Inc. Project) in an aggregate principal amount not to exceed \$25,000,000 (the "Bonds") to finance and refinance all or a portion of the costs of the Project pursuant to the limitations and conditions set forth in this Resolution and in subsequent resolutions of the Town; and

**WHEREAS**, it is intended by the Town that the interest on the Bonds will be excludable from gross income for federal income tax purposes; and

**WHEREAS**, the Town adopts this Resolution with the understanding that the action taken and authorized by this Resolution does not constitute final approval of the Project or of the Bonds and is not an absolute commitment by the Town to issue the Bonds and that approval of the Project will be effected in accordance with applicable law and regulations and that financial terms, security for the repayment of the Bonds, restrictions on transferability, if applicable, and other matters will be determined and/or approved by subsequent proceedings of the Town Council of the Town and by other appropriate regulatory bodies as may be required by applicable law and regulations, and the approval of the Interlocal Agreement by City of Plantation; and

**WHEREAS**, the Town has been informed by the Borrower that it has and anticipates that it will incur certain capital expenditures relating to the Project prior to the issuance of the Bonds by the Town; and

**WHEREAS**, such expenditures will be paid from the Borrower's own moneys; and

**WHEREAS**, the Code and applicable regulations (the “Regulations”) require the Town or the Borrower to declare its official intent in connection with the Borrower incurring certain capital expenditures in connection with the Project prior to the issuance of the Bonds in order to allow the Borrower to be reimbursed for such expenditures from a portion of the proceeds of the Bonds, when and if such Bonds are issued; and

**WHEREAS**, on September 25, 2001 and January 28, 2003, the Borrower’s Board of Directors approved resolutions expressing its intent to reimburse itself from the proceeds of tax-exempt obligations; and

**WHEREAS**, pursuant to the Florida Interlocal Cooperation Act of 1969, Sections 163.01 through 163.04, Florida Statutes (the “Interlocal Act”), the Town and the City of Plantation are authorized to enter into interlocal agreements as public agencies (as such term is defined in the Interlocal Act) of the State of Florida to provide for the joint exercise of powers, privileges and authority which the Town and the City of Plantation share in common; and

**WHEREAS**, the Town and the City of Plantation constitute public agencies for purposes of the Interlocal Act; and

**WHEREAS**, pursuant to the Interlocal Act, but subject to the terms and provisions of the Interlocal Agreement, the Town is authorized to issue the Bonds to finance and refinance the Project; and

**WHEREAS**, the Town hereby determines that to evidence the authorization for the Town to issue the Bonds for the purposes herein described, and to set forth the limitations and conditions of such authority, the Town and the City of Plantation shall enter into the Interlocal Agreement substantially in the form attached hereto as Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA, AS FOLLOWS:**

**SECTION 1.** The recitals set forth above are adopted by the Town as the findings of the Town and are incorporated herein.

**SECTION 2.** The maximum principal amount of Bonds expected to be issued for the Project is \$25,000,000.

**SECTION 3.** The Town will direct the Borrower on or before the date of delivery of the Bonds to allocate in writing the amount of proceeds of the Bonds (i.e., the reimbursement bond issue) used to reimburse the prior capital expenditures incurred in connection with the Project (herein, the “Prior Expenditures”). Such allocation will be accomplished within the later of 18 months from the earliest date such Prior Expenditures were incurred or the date the Project is placed in service (but in no event later than 3 years after the Prior Expenditures were made).

**SECTION 4.** In order for the Town to issue the Bonds to finance and refinance portions of the Project located outside the territorial boundaries of the Town, the Town hereby requires and approves the Interlocal Agreement in substantially the form attached hereto as Exhibit A. The Mayor (or, in his or her absence, the Vice Mayor or any other member of the Town Council in the Vice Mayor’s absence) is hereby authorized to execute and deliver on behalf of the Town, and the Town Clerk (or, in his or her absence, any Assistant or Deputy Town Clerk) of the Town is hereby authorized to affix the Seal of the Town and attest to the execution of the Interlocal Agreement in the form presented to this meeting together with such changes, modifications and deletions as the officer of the Town Council executing the same may deem necessary and appropriate with the advice of the Town Attorney, such execution and delivery to be conclusive evidence of the approval and authorization thereof of the Town.

**SECTION 5.** The terms of this Resolution and the actions authorized hereby shall not constitute final approval of the Project or authorization for the Town to issue the Bonds; such approval and authorization shall be considered by the Town by subsequent proceedings and by other appropriate regulatory bodies as required by applicable law and regulations. The adoption of this Resolution does not in any way entitle or create any rights in or for Borrower other than as set forth herein.

**SECTION 6.** This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED this \_\_\_\_ day of \_\_\_\_, 2003.

**TOWN OF DAVIE, FLORIDA**

ATTEST:

By: \_\_\_\_\_  
Tom Truex, Mayor

By: \_\_\_\_\_  
Russell Muniz, Town Clerk

I HEREBY CERTIFY THAT I HAVE APPROVED  
THE FORM AND CORRECTNESS OF THIS  
RESOLUTION.

\_\_\_\_\_  
Town Attorney

## **EXHIBIT A**

### **INTERLOCAL AGREEMENT**

This INTERLOCAL AGREEMENT made and effective as of this \_\_\_\_ day of \_\_\_\_\_, 2003, by and between the Town of Davie, Florida, a municipal corporation existing under the laws of the State of Florida (together with its permitted successors and assigns, "Davie") and the City of Plantation, Florida, a municipal corporation existing under the laws of the State of Florida (together with its permitted successors and assigns, "Plantation").

### **WITNESSETH:**

WHEREAS, pursuant to the Florida Interlocal Cooperation Act of 1969, Sections 163.01 through 163.04, Florida Statutes (the "Interlocal Act"), Plantation and Davie are authorized to enter into interlocal agreements as public agencies (as such term is defined in the Interlocal Act) of the State of Florida to provide for the joint exercise of powers, privileges and authority which Plantation and Davie share in common; and

WHEREAS, Davie and Plantation constitute public agencies for purposes of the Interlocal Act; and

WHEREAS, Davie and Plantation are each authorized under the provisions of the Florida Constitution, Part II of Chapter 159, Florida Statutes, Part II of Chapter 166, Florida Statutes and other applicable provisions of law (collectively, the "Act"), to issue revenue bonds or other obligations for the purpose of financing, or reimbursing the cost of acquiring, constructing, improving, maintaining, operating and financing educational facilities that are built, installed or established to serve primarily the educational purpose of operating any nonprofit private preschool, kindergarten, elementary school, middle school, or high school that is owned or operated by an organization described in Section 501(c)(3) of the United States Internal Revenue Code; and

WHEREAS, Davie and Plantation are each further authorized under the provisions of the Act to issue revenue bonds or other obligations for the purpose of financing, or reimbursing the cost of acquiring, constructing, improving, maintaining, operating and financing social service centers, defined in the Act to mean a community or social service center constructed for an organization which holds current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code; and

WHEREAS, in accordance with Section 159.34 of the Act, Davie has, upon application of United Jewish Community of Broward County, Inc., a Florida not-for-profit corporation (the "Borrower"), determined to finance and refinance on behalf of the Borrower, the costs of acquiring, constructing, reconstructing and equipping capital improvements to certain educational facilities and social service center facilities described more particularly in Exhibit A to this Agreement (the "Project") by the issuance by Davie of its Revenue Bonds, Series 2003 (United Jewish Community of Broward County, Inc. Project) in one or more series in the aggregate principal amount not to exceed \$25,000,000 (herein, the "Bonds"); and

WHEREAS, the educational facilities and social service center facilities to be financed by the Bonds will be owned by the Borrower or entities affiliated with the Borrower; and

WHEREAS, the Borrower has obtained a determination from the Internal Revenue Service that it is an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the proceeds of the Bonds will be loaned to the Borrower, pursuant to a Loan Agreement by and between Davie and the Borrower (the "Loan Agreement") supporting payment of the Bonds; and

WHEREAS, in connection with the issuance of the Bonds, Davie will also enter into a trust indenture and other necessary documents; and

WHEREAS, Davie has determined that the financing of the Project will serve a public purpose by advancing the public health, education and general welfare of the State and its people; and

WHEREAS, the Interlocal Act authorizes Davie and Plantation to enter into this Agreement and confers upon Davie authorization to issue the Bonds and finance and refinance the acquisition and construction of the educational facilities located in Plantation and in Davie for the benefit of Plantation and Davie; and

WHEREAS, it is the intent of the parties hereto to provide an additional method of financing the qualified educational facilities and social service facilities comprising the Project within the areas of Plantation and Davie through the exercise of the joint powers of Plantation and Davie in the manner set forth herein; and

WHEREAS, Plantation agrees to the issuance of the Bonds by Davie and the execution and delivery of documents and instruments related thereto.

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, the parties hereto agree as follows:

**Section 1.**        Authorization for Davie to Issue Bonds. Plantation hereby authorizes Davie to issue the Bonds to provide for the financing and refinancing of the Project and to enter into a trust indenture, the Loan Agreement and such other documents and instruments as may be necessary in connection therewith for the payment and security of the Bonds. All proceeds of any of the Bonds will be administered by Davie or its agents (as set forth in Section 2 below) and all payments due from the revenues pledged for the payment of the Bonds shall be paid by Davie or its agents without further action by Plantation.

**Section 2.**        Allocation of Responsibilities and Expenses. If the Bonds are issued, Davie shall be the sole issuer of the Bonds and the Bonds shall not identify Plantation as an issuer or obligor of the Bonds. Plantation shall not be responsible for any undertaking in connection with the Bonds except as set forth herein.

Davie, with the advice of its counsel, shall take all actions it deems necessary or appropriate in connection with the issuance of the Bonds, including, in its discretion, the preparation, review, execution and filing with government agencies of certificates, opinions, agreements and other documents to be delivered at the closing of the Bonds and the establishment of any funds and accounts pursuant to the trust indenture.

Neither Plantation nor Davie shall be liable for the costs of issuing the Bonds or the costs incurred by any of them in connection with the preparation, review, execution, approval or filing of this Interlocal Agreement or any documentation or opinions required to be delivered in connection therewith by Plantation or its counsel. Such costs shall instead be paid from Bond proceeds or otherwise by the Borrower.

**Section 3.**        Term. This Interlocal Agreement shall remain in full force and effect from the date of its filing pursuant to Section 5 hereof until such time as it is terminated by any party upon ten (10) days' written notice to the other party hereto. Notwithstanding the foregoing, it is agreed that this Interlocal Agreement may not be terminated by any party during any period that the Bonds remain outstanding, or during any period in which the proceeds of such Bonds are still in the possession of Davie or its agents pending distribution, unless the parties to this Interlocal Agreement actually agree in writing to the terms of such termination. It is further agreed that in the event of termination the parties to this

Interlocal Agreement will provide continuing cooperation to each other in fulfilling the obligations associated with the issuance of Bonds pursuant to this Interlocal Agreement.

In the event the Bonds are not issued by Davie within twelve months from the date hereof, this Interlocal Agreement shall terminate and be of no further effect.

**Section 4.**        Representations, Warranties and Legal Opinions. Plantation hereby agrees to deliver to Davie on or prior to the date of issuance of the Bonds an opinion of its County Attorney dated the date of the issuance of the Bonds and addressed to Davie to the effect that:

(a)        The resolution of Plantation authorizing this Interlocal Agreement has been duly adopted by Plantation;

(b)        This Interlocal Agreement has been duly executed and delivered by Plantation, and upon proper filing thereof, constitutes a valid binding obligation of Plantation, enforceable in accordance with its terms, subject to customary exceptions; and

(c)        To its best knowledge, there is no action, suit or proceeding at law or in equity pending or threatened which might adversely affect the validity or enforceability of this Interlocal Agreement.

**Section 5.**        Filing. It is agreed that prior to issuance of the Bonds, this Interlocal Agreement shall be filed by Davie with the Clerk of the Circuit Court of Plantation and with the Clerk of the Circuit Court of Broward County, as required by Section 163.01(11) of the Interlocal Act.

**Section 6.**        Limited Obligations. The Bonds shall not constitute a debt or obligation of Davie or Plantation. Neither Davie nor Plantation shall be liable for payment of the principal of, premium, if any, or interest on the Bonds. Neither the faith, revenues, credit nor taxing power of Plantation or Davie shall be pledged to the payment of the principal of, premium, if any, or interest on the Bonds. The Bonds shall be payable as to principal, premium, if any, and interest solely from the trust estate established pursuant to the trust indenture relating to the Bonds. Provisions substantially to the effect of the foregoing shall be included in the Bonds.

**Section 7.**        Offering Documents. Davie and Plantation agree that any offering circular or official statement approved by Davie and used in marketing the Bonds will include a statement that Bondholders may not look to Davie or Plantation for payment of the Bonds and interest or premium thereon, except from the revenues pledged therefor.

**Section 8.**        Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, addressed as follows:

If to the Town  
of Davie:

Mr. Thomas J. Willi  
Town Administrator  
Town of Davie  
6591 Orange Drive  
Davie, Florida 33314

If to Plantation:

City of Plantation  
Office of the Mayor  
400 NW 73 Avenue  
Plantation, Florida 33317

Davie and Plantation may, by written notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 9.**      Execution in Counterparts. This Interlocal Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have entered into this Interlocal Agreement on the day and year first written above.

(SEAL)

TOWN OF DAVIE, FLORIDA

ATTEST:

By: \_\_\_\_\_  
Russell Muniz, Town Clerk

By: \_\_\_\_\_  
Tom Truex  
Mayor

FORM APPROVED:

By: \_\_\_\_\_  
Town Attorney

(SEAL)

CITY OF PLANTATION, FLORIDA

ATTEST:

By: \_\_\_\_\_  
Susan Slattery  
City Clerk

By: \_\_\_\_\_  
Rae Carole Armstrong  
Mayor

FORM APPROVED:

By: \_\_\_\_\_  
City Attorney



STATE OF FLORIDA )  
 ) SS:  
COUNTY OF BROWARD )

I, \_\_\_\_\_, a Notary Public in and for the said County in the State aforesaid, do hereby certify that Tom Truex and Russell Muniz personally known to me to be the same persons whose names are, respectively, as Mayor and Town Clerk of the Town of Davie, Florida, a municipal corporation organized under the laws of the State of Florida, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged under oath that they, being thereunto duly authorized, signed, sealed with the seal, and delivered the said instrument as the free and voluntary act of said political subdivision and as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_ day of \_\_\_\_\_, 2003.

NOTARY PUBLIC  
SEAL OF OFFICE:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Notary Public, Print, Stamp or Type as Commissioned.)

Personally known to me, or  
Produced identification: \_\_\_\_\_  
(Type of Identification Produced)

STATE OF FLORIDA        )

) SS:

COUNTY OF BROWARD )

I, \_\_\_\_\_, a Notary Public in and for the said County in the State aforesaid, do hereby certify that Rae Carole Armstrong and Susan Slattery personally known to me to be the same persons whose names are, respectively, as Mayor and City Clerk of Plantation, Florida, a political subdivision of the State of Florida, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged under oath that they, being thereunto duly authorized, signed, sealed with the corporate seal, and delivered the said instrument as the free and voluntary act of said political subdivision and as their own free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_ day of \_\_\_\_\_, 2003.

NOTARY PUBLIC  
SEAL OF OFFICE:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Notary Public, Print, Stamp or Type as  
Commissioned.)

Personally known to me, or  
Produced identification: \_\_\_\_\_  
(Type of Identification Produced)

EXHIBIT A TO INTERLOCAL AGREEMENT

DESCRIPTION OF PROJECT TO BE FINANCED

*Ellie and Herbert Katz Building*

*\$3,469,099.43*

The Ellie and Herbert Katz Building, completed in July 2002, houses the administrative offices of the Applicant, as well as offices for The Rose and Jack Orloff Central Agency for Jewish Education and Hillel: The Foundation for Jewish Campus Life. The building is two stories and approximately 30,000 square feet. A portion of the proceeds of the Bonds will be applied to repay a conventional loan pursuant to which the Applicant has financed the cost of the acquisition, construction and equipping of this facility.

*David Posnack Jewish Community Center*

*\$12,437,528.09*

Two projects have been undertaken to improve service to the community:

The Family and Children's Services Building that services the community by providing a supervised after-school and camp program for children ages 5 –14, thereby providing working parents with supervised after-school care and a day camp during school days off and school breaks. The Children's Services building is a one-story building that occupies 20,000 square feet of space. It was placed into service in March 2002.

The Nat & Dina Sedley Family Indoor Sports, a fitness center to better serve the needs of the entire community: children, adults and seniors. The fitness center includes a walking track, aerobics studio, dance classes, sports teams, and a myriad of other services. The fitness center occupies 30,000 square feet of space and is a two-story building. This facility was placed into service on April 15, 2003.

*David Posnack Hebrew Day School (Davie Elementary School)*

*\$2,710,049.59*

This project consists of an elementary school on the same campus as the David Posnack Jewish Community Center so that the fields and gym can be shared, thus creating the most effective use of the property. The school services grades K-5. Approximately 200 students attend the school. The school is a two-story structure and occupies 42,000 square feet. It was placed into service in August of 2000.

*David Posnack Hebrew Day School (Plantation Middle and High School)*

*\$6,035,039.56*

This project consisted of a Middle and High School for grades 6-12. The mission of the school is to provide the highest quality education in which students develop in a positive manner, intellectually, emotionally, spiritually, physically and socially. This is a two-story building and occupies 40,701 square feet of space. It was placed into service on August 2002.

*Samuel M. & Helene Soref Jewish Community Center, Perlman Family Campus \$1,900,000*

The Soref Jewish Community Center located in Plantation, Florida provides services and activities for children and adults in the community and shares a campus with the Plantation elementary school of The David Posnack Hebrew Day School. Many of the programs take place in the gymnasium. The campus has outgrown its current gymnasium, and is unable to service its current programs or provide needed new programs.

The proposed Physical Education Facility will include a double-sided gymnasium; reception area with offices; locker rooms with hot tub, sauna and steam room; weight room; aerobics / martial arts room; cardio room with stationary bikes, stair steppers and climbers; therapy rooms; and a storage area. Total square footage will approximate 15,000 square feet.

The students of the David Posnack Hebrew School, Soref JCC Preschool and after-school program participants will utilize this facility on a daily basis. Membership will also be available to the general community.

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